

## STATE OF MAINE PUBLIC UTILITIES COMMISSION 242 STATE STREET 18 STATE HOUSE STATION AUGUSTA, MAINE 04333-0018

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## CAD Bulletin 2008-04

To: Maine Electric and Gas Transmission and Distribution Companies

From: Derek D. Davidson, Director, Consumer Assistance Division

Subject: Implementation Chapter 815 of the Commission's Rules – Follow-up from

February 28 Meeting

A meeting was held at the Commission on February 28 to discuss the implementation of the new Chapter 815, which becomes effective on April 16, 2008. The purpose of the meeting was to discuss and clarify sections of Chapter 815 that utilities have found unclear, as well as to identify sections of Chapter 815 that may need to be modified through a future rulemaking. The purpose of this bulletin is to provide an informal, CAD interpretation of certain aspects of the rule and to inform you of planned amendments to the rule. Also, attached to this bulletin is a letter that Bangor Hydro Electric (BHE) sent to its customers regarding medical emergencies, as well as a presentation made by CMP at the meeting that covered electronic payments. BHE sent the letter to customers that have been on extended medical emergencies notifying them that with the rule change on April 16, medical emergency declarations will be limited to three per household in a 12 month period. CAD staff urge other utilities to also send the notice to their customers currently covered by medical emergencies. Finally, after careful review of the comments made at the meeting, as well as the language of the rule, we have concluded that very few sections of the new rule need to be amended. Consequently, the rule in its entirety will take effect on April 16. Utilities that cannot comply with a particular section of the rule, either in the near term or the long term, can file a request for a waiver pursuant to section 16 of Chapter 815. The Commission will initiate a limited rulemaking in the near future to address the problematic sections of the rule described below.

The questions raised at the meeting on the 28th, along with the CAD's informal interpretation of the pertinent rule sections, are listed below.

Section 1(C)(1): Policy; and Section 9: Payment Arrangements. Question: What is the definition of "reasonable" as the term applies to payment arrangements?



Answer: See language in section 9(F) and 9(F)(1) of the rule that specifies the criteria that must be considered when establishing a payment arrangement.

Section 3: Emergency Moratorium. Question/Comment: The CAD should establish a process for contacting utilities when declaring an emergency moratorium (on disconnections) and establish a list of contact people within the utilities.

Answer: This is a good suggestion. The CAD shall notify utilities of the declaration of an emergency moratorium by email. Each utility should provide the CAD with a single email address/contact person who will receive the notice. Each utility will be responsible for developing its own internal notification process. This information should be provided to the CAD by April 1, 2008.

Section 5: Customer Rights. Question: In situations where a customer is disconnected for non-payment, must utilities provide the Notice of Customer Rights (Notice) when the customer is subsequently reconnected? Likewise, what about seasonal customers who suspend service for months at a time but who remain customers? Finally, what about situations where a landlord has requested that service revert back into the landlord's name when a tenant leaves?

Answer: The key factor in deciding whether a notice must be sent is whether the individual is a "customer" or an "applicant." The Notice must be provided whenever the person is considered an "applicant." The Notice is not required for "customers." Section 2(J) defines a customer as "any person or business that has applied for, been accepted and is either receiving service or has agreed to be billed for service. This term also includes a person or business that was a customer of the same utility within the past 30 days and who requests service at the same or a different location." In light of this definition, if a customer is disconnected for non-payment and remedies the disconnection within 30 days. that person would remain a "customer" and therefore would not need to receive a copy of the Notice. Likewise, if a customer closes an account and moves to a new location within 30 days, that person would continue to be considered a "customer" and would again not need to receive a copy of the Notice. This same concept applies to seasonal customers. As long as they remain a "customer" of the utility, the utility is not required to send them a Notice. In the landlord situation, if the service was not in the landlord's name within the past 30 days from the date the service reverts to the landlord's name, the utility must provide a copy of the Notice.

Section 6(F): Designation of Third Parties to Receive Notices.

Question: Does this section also require notice of planned outages, such as a temporary interruption due to work in the street? Are there other scenarios that you feel come under this language?

Answer: Though the rule does not specifically require notice of planned interruptions, I think that such notice is consistent with the premise of the rule. The purpose of this section is to ensure that a third party who may be a care taker for the customer is aware of important issues taking place with the customer's account to ensure that the customer's interests are looked after. In these situations, I think it would be appropriate to notify the third party of a planned outage. Similarly, the notice should also be provided to the third party for any other similar situation.

Section 7(A)(3): Deposits for Residential Applicants. Question: Is there a retrospective time limitation for a disconnection for non-payment of a non-disputed bill that would apply to the collection of a deposit from a residential customer pursuant to section 7(A)(3)?

Answer: The disconnection for non-payment of an undisputed bill must have occurred within 12 months prior to the date the person applied for service. This opinion is based on the fact that this subsection of Chapter 815 was intended to mirror subsection 5(A)(1) of Chapter 81. The Notice of Rulemaking stated with regards to this subsection "[w]e therefore expanded the situations that constitute prima facie proof that the applicant is likely to be a credit risk as established by Chapter 81." Section 5(A)(1)(c) of Chapter 81 states "[t]he applicant was disconnected for non-payment of an undisputed bill or for unauthorized use or theft of service within the past 12 months." Due to a formatting error, these two situations were separated in Chapter 815, which eliminated the 12 month limitation. This error will be corrected in the rulemaking. However, until the rulemaking takes place, the 12-month limitation will apply. Also, the disconnection can be with any utility in Maine, it is not limited to the utility from which the customer is seeking service.

Section 7(C): Deposits for Residential Customers. Question: If an existing customer establishes a second account and the utility would be authorized by the rule to collect a deposit if the customer was otherwise considered an "applicant" with regards to the establishment of the second account, can the utility collect a deposit on the new account?"

Answer: Yes. Section 7(C)(2) establishes the requirements for the collection of a deposit from an existing customer when the customer requests that service be reconnected at the same or a different location after the customer was disconnected for non-payment, unauthorized use, or theft of services. This

language does not apply to the situation where a customer opens multiple accounts. In these types of situations, the requirements of section 7(A) - Deposits for Applicants - apply to the new accounts. When a customer establishes multiple accounts, the financial risk of non-payment for that customer increases. To address this increased risk, additional deposits may be collected for each additional account opened, provided that the terms for the collection of a deposit from an applicant, as defined in section 7(A), are met for each account. The purpose of a deposit is to protect utility customers who pay their bills from the risk of a future request by the utility to make up the lost revenue from non-paying customers. In light of this, it is logical that utilities be able to collect multiple deposits, when permitted by section 7(A), for multiple accounts.

Section 7(F)(1)(d): Guarantee Instead of Deposit. Question: How long does the guarantee stay on the account?

Answer: If the guarantor does not fall into arrears, the utility may retain the guarantee agreement as long as the customer remains a customer or as long as the guarantee specifies. The utility may cancel the guarantee agreement if a guarantor incurs an arrearage with the utility that is more than 60 days old. In this situation, the utility may demand a deposit from the customer.

Section 7(I)(2): Retention and Refund (of Deposits). Question: Under section 7(I)(2), can utilities provide a required refund of a deposit as a credit on a customer's bill or must the utility provide an actual refund to the customer?

Answer: Section 7(I)(2) states "[w]hen a customer transfers service from one location to another location, an existing deposit may be transferred to the new location and must be adjusted according to the anticipated usage at the new location is lower than the old location, the appropriate refund to the customer must be made." If the customer has an outstanding arrears balance, the utility may first apply the refund to the arrears balance and refund any remaining amount to the customer. In situations where a refund will be made and the refund exceeds the cost to cut a refund check, the customer can choose a bill credit or a refund. In situations where the cost to cut a check for the refund exceeds the amount of the refund, the utility may provide the refund in the form of a credit.

Question: Can a utility increase a deposit if a customer's usage increases?

Answer: Not without a transfer of service. The section of the rule that provides for the adjustment of a deposit applies only to the transfer of service from one location to another.

Section 8(F)(3): Electronic Payments. Question/Comment: Several utilities reported that they do not receive notice from third party vendors of electronic

payments until the next day and sometimes not until two to three days after the transaction is executed by the customer. Also, payments made through "unauthorized" payment agents are not under the control of utilities and may not be received for days or even weeks after the due date, even though the payment may have been executed by the customer on or before the due date. Given this, how do we comply?

Answer: The purpose of this section is to ensure that customers who pay their bill electronically by or on the due date do not incur late fees. We had a lengthy discussion regarding this section and CMP made a presentation describing its compliance difficulty as well as a work around it developed for payments made through "authorized" payment agents (a copy of the presentation is attached hereto). CMP's work-around involved the creation of a "grace period" after the due date to ensure that customers are not assessed a late payment fee for electronic payments executed on or before the due date. Most of the utilities participating in the meeting said that they already have a "grace period" of one to three days between the due date of the bill and the date when late fees are assessed. If the grace period is sufficient to ensure that electronic payments executed by the customer on or by the due date do not result in the assessment of late fees, the utility is in compliance with this section. We requested an update by March 7 from utilities at the meeting who were unsure whether or not they had a grace period or whether the grace period was sufficient to comply with the rule. All utilities have responded that they either will comply with the rule (for authorized carriers) by April 16 or can create a work around to comply with the rule. Some utilities who must complete a work around have indicated that they will request a waiver from this requirement until such time that the work around is completed.

If utilities indicate or list the date a payment is made on their bills (most in attendance at the meeting indicated they do not do this), the date on the bill must be the date that the customer executed the payment. This adds another level of complexity to this issue. While the grace period work around described above may eliminate the assessment of late fees, this work around would not resolve the issue of the correct payment date appearing on the customer's bill.

Regarding payments made through "unauthorized payment agents," the rule will be amended to clarify that this requirement applies only to payments made through authorized payment agents. In the meantime, we will by separate Order be granting a waiver to this section of the rule for all utilities. The waiver will be take effect on April 16, the same day the rule takes effect.

Section 8(F)(4): Payment at a Remote Office. Question: Similar to the issue described above, some utilities have reported that they do not receive notice of payments made at authorized payment agencies until the day following the receipt of the payment.

Answer: This subsection requires utilities to consider a payment made at a branch office of the utility or at an authorized payment agency "received" on the date the payment is received at that location. All utilities who participated in the meeting have reported that they will be able to comply with this section, some with the work-around described above, by April 16, 2008.

Section 8(K)(2): Transfer of Multiple Accounts. Question: Is there a time limit for transferring an account balance from one account to another account pursuant to section 8(K)(2)?

Answer: No. This section allows a utility to transfer an account balance when a customer closes an account to another account for that customer when the customer maintains multiple accounts. The transfers can only be made between similar accounts, i.e., residential account to residential account and commercial account to commercial account. The rule does not currently limit the time for which an account balance can be transferred, though this was an oversight on our part. When we amend the rule, we will propose that a time limit of 60 days from the date the account is closed be implemented to transfer the account balance. This timeframe is consistent with the timeframe contained in section 8(K)(1) for the transfer of a current account balance to a new location when the customer transfers service.

Section 9(F)(3): Second Payment Arrangement (for residential customers). Question: This section states that utilities may require customers to make the first payment of a payment arrangement up-front as a condition of entering into the second arrangement. Does this mean that utilities can consider the first payment as a down payment and that a customer can be disconnected if the payment is not made?

Answer: To answer the first part of the question, the first payment of the arrangement can be required as a condition of entering into and continuing with the second payment arrangement. Though the difference between the phrase "down payment" and "first payment upfront" it is not readily apparent, the first payment must be reasonable and must meet the conditions for a "reasonable payment arrangement" as specified in section 9(F)(1). To answer the second part of the question, a customer can be disconnected for non-payment of the first payment if the first payment is due within the effective period of a properly issued disconnection notice that complies with section 10(D). If there is no disconnection notice in effect at the time the first payment for the second arrangement is due, the utility cannot immediately disconnect the customer for failure to pay. In these situations, the must utility must issue a three day disconnection notice, pursuant to section 10(D)(3), if a customer fails to make the first payment. As a reminder, section 9(c) requires utilities to confirm payment arrangements in writing. Section 9(c) states "If a utility does not mail or deliver a written confirmation of a payment arrangement to the customer within 3 business

days after a payment arrangement is agreed to, the utility cannot disconnect the customer for failure to comply with the payment arrangement." In light of this requirement, if a utility plans to pursue disconnection if a customer fails to meet the terms of a payment arrangement (even one requiring only one payment), the payment arrangement must be confirmed in writing.

Section 10(L)(5): Informational Packet. Question: Some utilities have questioned how to comply with this requirement for customers that are disconnected close to November 15, e.g., a customer disconnected on November 14 will not receive the packet by November 15. Also, does this section only apply to customers disconnected for non-payment?

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Answer: This subsection requires utilities to mail an informational packet by November 15 to all residential customers disconnected since the end of the previous winter period that have not been subsequently reconnected. We will address this issue in the rulemaking, most likely suggesting a cut off date of October 15, i.e., utilities will not be required to send packets to customers disconnected after October 15. To answer the second question, this section only applies to customers disconnected for non-payment. This will be clarified in the rulemaking.

> Section 10(M)(6): Copies of Notices Filed with the CAD (winter disconnection of residential customers).

Question: Does this requirement include company training materials used as guidelines for the CSR's in the call center and materials created for refresher training for the call center staff?

Answer: No, only information provided to customers.

Section 11: Continuation of Utility Service is required For Residential Customers with a Serious Medical Condition.

**Section 11(B):** Disconnection postponed pending certification. Question: The phrase "whichever date is later" at the end of the first sentence seems to imply that in all cases, the disconnection date must be extended three business days beyond the 10<sup>th</sup> day of a disconnection notice to allow time for the customer to obtain a physician's certification of the a medical emergency. Is this correct?

Answer: No. The phrase "whichever date is later" applies to either the end of the 10-day disconnection window or the end of the three day certification period, whichever is later. If the three business day window does not exceed the last day of the 10-day window, the last day of the 10-day window applies and vice versa. For example, if a customer declares a medical emergency on the first effective day of a notice, the utility must provide the customer three business

days to obtain the certification. The end of the three business day period will fall within the 10-day effective period of the notice, so the final day of the notice will not have to be extended (the 10<sup>th</sup> day of the notice is later than the last day of the three business day period). If a customer declares a medical emergency on the ninth day of the notice, the window of the notice can be extended to accommodate the three business day period, provided that the customer was notified of the extension at the time the utility was notified of the medical emergency.

**Section 11(E). Length of Certification; Renewals**. Question: This section states that "[a] certification may be *renewed* a total of *three* times during any 12-month period." Is the total number of times a customer can declare a medical emergency in a 12-month period three or four times?

Answer: If a certification is renewed three times, this would result in a total of four certifications. This language, as stated, means that a residential customer could receive three renewals in addition to the original certification. This conflicts with the Order Adopting the Rule (OAR) which states that medical emergency certifications are limited to a *total* of three during any 12-month period. The OAR specifically states that the rule was modified "to limit the number of medical emergencies a customer can declare to three in a 12 month period, with a 30 day maximum period for each declaration." The CAD will use the language in the OAR to enforce subsection 11(E), meaning that customers can be limited to three total medical emergency declarations within a 12 month period. To further clarify the intent of this subsection, the three certifications also represent the total number of certifications that can be declared per household. Thus, if multiple occupants of the same household have medical conditions that would qualify as a medical emergency, the household is limited to a total of three certifications within a 12 month period. This will be corrected in the rulemaking.

Section 14: Customer Notification of Planned and Unplanned Service Interruptions due to Maintenance or Repairs.

**Section 14(A):** Reasonable Notice required. Question: Can you clarify what is meant by the phrase "...or a single commercial customer on a dedicated line..." in the second sentence of section 14(A)?

Answer: This subsection requires utilities to provide reasonable notice to customers of the of the cause and expected duration of a planned outage when the outage will affect more than 10 customers, last more than five hours, or affect a *single commercial customer on a dedicated line...* "As discussed in the OAR, the intent of this phrase is to require notification when a large commercial customer receives service over a single, dedicated line. Since the release of the final rule, utilities have asked if this applies to small commercial customers that are the only customer on a line or to only large commercial customers receiving

service at the transmission level. When this language was drafted, we assumed that only a very large customer would be served off a single line and this was our intent. At the meeting, we acknowledged that this language is unclear and asked for suggested language from participants. This section will be modified in the upcoming rulemaking. In the meantime, utilities shall comply with the rule as written, i.e., when a commercial customer on a dedicated line will be impacted by a planned outage, the utility must notify the customer of the cause and expected duration of the outage. We also encourage utilities to provide notice to other customers when it is reasonable, depending on the situation. For example, if two large commercial customers are served by the same line and the utility is planning an outage, it makes sense to notify both customers. Likewise, if the utility is working on a line that serves only one residential customer, it makes sense to attempt to notify the customer of the work (could be as simple as knocking on the door) when possible.

**Section 14(B): Notification of Affected Customers**. Question: Should the interruption period that triggers the notification requirement be five hours, instead of three hours? The interruption period specified in section 14(A) is five hours and in 14(A) is three hours. The OAR seemed to indicate that both sections 14(A) as well 14(B) would specify an interruption period of five hours.

Answer: While it appears from a review of the comments by interested parties, the Notice of Rulemaking, and the OAR, that we intended to modify both sections of the proposed rule to five hours, section 14(B) was not ultimately changed. Because it is not clear in the OAR that the Commission intended to modify section 14(B) to five hours, utilities must comply with the three hour requirement contained in section 14(B) until the rule is modified.

Please feel free to contact me at (207) 287-1596, if you have any questions.

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